

THE HONORABLE STANLEY A. BASTIAN

MICHAEL E. McFARLAND, JR., #23000  
RACHEL K. PLATIN, #58280  
Evans, Craven & Lackie, P.S.  
818 W. Riverside, Suite 250  
Spokane, WA 99201-0910  
(509) 455-5200; fax (509) 455-3632  
Attorneys for Defendants

IN UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

RANDEY THOMPSON,

Plaintiff,

vs.

CENTRAL VALLEY SCHOOL  
DISTRICT NO. 365; BEN SMALL  
INDIVIDUALLY AS  
SUPERINTENDENT OF THE CENTRAL  
VALLEY SCHOOL DISTRICT,  
CENTRAL VALLEY SCHOOL  
DISTRICT NO. 365 BOARD OF  
EDUCATION AND IN THEIR  
INDIVIDUAL CAPACITY BOARD OF  
EDUCATION MEMBERS AND  
DIRECTORS DEBRA LONG, MYSTI  
RENEAU, KEITH CLARK, TOM  
DINGUS, AND CYNTHIA MCMULLEN,

Defendants.

Cause No. 2:21-cv-00252-SAB

**DEFENDANTS BEN  
SMALL'S, DEBRA LONG'S,  
MYSTI RENEAU'S, KEITH  
CLARK'S, TOM DINGUS'  
AND CYNTHIA  
MCMULLEN'S LCivR  
56(c)(1)(A) STATEMENT OF  
MATERIAL FACTS NOT IN  
DISPUTE**

INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
STATEMENT OF MATERIAL FACTS NOT  
IN DISPUTE - page 1

*Evans, Craven & Lackie, P.S.*  
818 W. Riverside, Suite 250  
Spokane, WA 99201-0910  
(509) 455-5200; fax (509) 455-3632

1 Defendants Ben Small, Debra Long, Mysti Reneau, Keith Clark, Tom  
2 Dingus and Cynthia McMullen respectfully submit, pursuant to L.Civ.R.  
3 56(c)(1)(A) the following undisputed facts that entitle them to a finding of  
4 qualified immunity and the dismissal of Plaintiff's 42 U.S.C. § 1983 claim  
5 against them.  
6  
7

8  
9 1. On August 17, 2020 Mr. Thompson posted a rant on his Facebook page  
10 that included profanity, derogatory and violent language. ECF 1 ¶ 166;  
11 *Screenshot of Randey Thompson Facebook Post*. The post was seen by a fellow  
12 CVSD employee and was forwarded to other employees until finally making its  
13 way to CVSD Superintendent Ben Small. Rowell Decl. ¶ 2-3.  
14  
15

16 2. The Facebook post contained the following language:  
17

18 Demtard convention opens and the only facts spoken  
19 were the names. Lie after lie. The fact checkers could  
20 retire on Michelle Obama's rant alone. What s hatefull  
21 racists bitch. If you need to lie to try and win you are just  
22 shit. If you believe them you are even worse. Wake the  
23 fuck up America. You are being played by a fake media,  
24 athleats and performers (who are really clueless and  
25 flyers with pedophile man) and the former DNC, now  
26 just the little bitch of Marxist BLM, Antifa, and Soroas  
27 socialist. You are missing out on a great country and the  
28 rest of us are sick and tired of your act and going to take  
29 you to the woodshed for a proper education. May God  
30 help you to pull your heads out of your asses so we will

INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
STATEMENT OF MATERIAL FACTS NOT  
IN DISPUTE - page 2

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Spokane, WA 99201-0910  
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1 not have too. Time for the red tide. Lets see how long  
2 until the FB liberal defenders take this one down.

3 Rowell Decl. Exhibit A.  
4

5 3. On August 19, 2020, CVSD placed Mr. Thompson on paid administrative  
6 leave while it investigated the matter. Rowell Decl. ¶ 4. Placing an employee on  
7 paid administrative leave while CVSD investigates the employee is standard  
8 protocol at CVSD. *Id.*  
9

10  
11 4. On August 20, 2020, CVSD retained attorney Ann Allen as an  
12 independent third-party investigator to investigate Mr. Thompson's Facebook  
13 post. Rowell Decl. ¶ 8.  
14

15  
16 5. Ms. Allen conducted interviews with individuals who read and/or reported  
17 their concern about the same to administration, as well as other individuals  
18 understood to have knowledge of Mr. Thompson in his administrative role. *Id.*  
19

20 6. The latter part of the investigation was for the purpose of determining  
21 whether Mr. Thompson had engaged in any conduct or made any statements  
22 while at school that were similar in nature to those in his Facebook post. *Id.*  
23

24  
25 7. Between August 24, 2020 and August 26, 2020, Ms. Allen conducted  
26 interviews of the following people: (1) Megan McMurtrey (now Counselor at  
27

28 INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
29 STATEMENT OF MATERIAL FACTS NOT  
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1 Ridgeline High School); (2) Christy Swan (now Principal at Chester Elementary  
2 School); (3) Sasha Deyarmin (Principal at Ponderosa Elementary); (4) Brandon  
3 Deyarmin (Assistant Principal at University High School); (5) Mike Syron  
4 (Principal at Evergreen Middle School); (6) Kerri Ames (Principal at Central  
5 Valley High School); and (8) Katie Louie (Vice Principal at Central Valley High  
6 School). Rowell Decl. ¶ 9; Allen Decl. ¶ 3-5.

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10 8. Those interviewed found the language in the Facebook post to be shocking  
11 and concerning coming from an individual in a leadership role at the district.  
12 Allen Decl. ¶ 6, Exhibit A.

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14  
15 9. The individuals interviewed all agreed that the word “demtard” was highly  
16 offensive and potentially extremely hurtful to students, families, and members of  
17 the community. *Id.*

18  
19 10. The individuals interviewed all expressed concern about the hatred and  
20 language in the post and were concerned about the negative impact it could have  
21 between CVSD and its community because the post was not reflective of  
22 CVSD’s mission to help all children. *Id.*

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25 11. Ms. Allen next interviewed CVSD administrators Mike Syron, Kerri  
26 Ames, Kent Martin, and Katie Louie. Allen Decl. ¶ 7.

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28 INDIVIDUAL DEFENDANTS’ LCivR 56(c)(1)(A)  
29 STATEMENT OF MATERIAL FACTS NOT  
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1 12. Those interviews focused on learning about Mr. Thompson's background  
2 and their interactions with him. *Id.*  
3

4 13. The stated purpose of the interviews was to determine whether there had  
5 been a pattern of conduct that indicated that Mr. Thompson's behavior in posting  
6 such statements would likely be repeated. *Id.*  
7

8 14. Mr. Thompson's supervisor, Mr. Syron, discussed inappropriate and  
9 insensitive words used by Mr. Thompson in a presentation to staff, i.e., calling  
10 students of the past "Norman Rockwell Kids" and students of today "Tide Pod  
11 Challenge Kids," saying that students today have "snowflake" syndrome and that  
12 they are entitled. Allen Decl. ¶ 8; Syron Decl. ¶ 6, Exhibit B.  
13  
14

15 15. Mr. Syron discussed that he had warned Mr. Thompson not to use that  
16 language prior to the presentation, but that Mr. Thompson did anyways. Syron  
17 Decl. ¶ 8.  
18  
19

20 16. As predicted, the staff did not appreciate the labels and a number of staff  
21 expressed their concern and disapproval of the same to Mr. Syron following the  
22 presentation. *Id.*  
23  
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25 17. Mr. Syron determined that he would no longer permit Mr. Thompson to  
26 present to the staff again. *Id.*  
27

28 INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
29 STATEMENT OF MATERIAL FACTS NOT  
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1 18. Kerri Ames was interviewed by Ms. Allen based on her experience  
2 working with Mr. Thompson at Central Valley High School. Allen Decl. ¶ 9.  
3

4 19. Ms. Ames reported that Mr. Thompson used the word “short bus” in  
5 reference to special education students and did not permit him to give  
6 presentation to the staff. *Id.*  
7

8 20. Ms. Louie was interviewed by Ms. Allen based on her experience  
9 working with Mr. Thompson at Central Valley High School. Allen Decl. ¶ 10.  
10

11 21. Ms. Louie stated that one group meeting included ten (10) students that  
12 self-identified as African-American. *Id.*  
13

14 22. The questions for that meeting had been thoughtfully drafted. *Id.*  
15

16 23. Ms. Louie reported that at the end of the meeting Mr. Thompson moved  
17 off script and asked one particular student if he felt that teachers had treated him  
18 differently than the “normal” students. *Id.*  
19

20 24. Based on these responses from Ms. Allen’s interviews, Mr. Rowell  
21 determined that the Facebook post was not an isolated incident, and it became  
22 clear to him that remediation and correction of Mr. Thompson’s behavior might  
23 not be possible. Rowell Decl. ¶ 10.  
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28 INDIVIDUAL DEFENDANTS’ LCivR 56(c)(1)(A)  
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1 25. From September 8, 2020 to September 15, 2020, Mr. Rowell conducted  
2 Impact Interviews to determine the potential impact of Mr. Thompson's  
3 statements, both on Facebook and while working. Rowell Decl. ¶ 11, Exhibit C.  
4

5 26. Mr. Rowell was interested in determining whether Mr. Thompson's  
6 conduct had a negative impact on his ability to work in a leadership position with  
7 CVSD, and how his comments impacted administrators, parents, teachers and  
8 school board members. *Id.*  
9  
10

11 27. Mr. Rowell interviewed two (2) board members, two (2) in-district  
12 administrators, two (2) in-district teachers and (2) parents of current CVSD  
13 students. Rowell Decl. ¶ 12.  
14  
15

16 28. In the interview, Mr. Rowell read the content of the Facebook post  
17 (without identifying Mr. Thompson's identity) to the person he was interviewing  
18 and asked for his or her impressions and thoughts about the same. *Id.*  
19  
20

21 29. The school staff reported that if they became aware that an assistant  
22 principal they worked with thought or said these things that they would have  
23 difficulty working with that person and that it would detrimentally impact that  
24 administrator's relationships with the staff, students and their families. *Id.*  
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28 INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
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1 30. The parents interviewed reported that they would be wary of sending their  
2 children to any school at which Mr. Thompson was an administrator, and that  
3 Mr. Thompson's derogatory, hateful and potentially racist statements reflects  
4 poorly on CVSD. *Id.*  
5  
6

7 31. School staff and administrators also reported that Mr. Thompson's  
8 offensive statements ran contrary to the CVSD School Board's recent Resolution  
9 Recommitting to Equity and Inclusion. *Id.*  
10  
11

12 32. On or around September 15, 2020, Mr. Rowell called Ty Larsen, Mr.  
13 Thompson's CVSD representative, to schedule a Notice and Opportunity  
14 meeting that would be held on the virtual video meeting software WebEx to  
15 discuss Mr. Thompson's Facebook post and the statements he made at work.  
16  
17 Rowell Decl. ¶ 15.  
18

19 33. On September 22, 2020, a Notice and Opportunity meeting was held with  
20 Mr. Thompson to discuss two allegations against him: (1) he posted an  
21 inappropriate and offensive comment on Facebook recently; and (2) he made  
22 derogatory and insensitive comments while at work. Rowell Decl. ¶ 16, Exhibit  
23 E.  
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28 INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
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1 34. Mr. Thompson was asked a number of questions regarding what he had  
2 posted, who he intended to see the post and questions about the nature of the  
3 words and phrases he used in the post. Rowell Decl. ¶ 17.

4  
5 35. Mr. Thompson claimed that he believed he sent the Facebook post in  
6 question to only twelve (12) select friends that share similar political opinions  
7 with him. Rowell Decl. ¶ 18.  
8  
9

10 36. Mr. Thompson claimed that he had written a different, albeit similar, post  
11 that censored profanity, did not have spelling errors, and had a few word  
12 changes. *Id.* at 20. The content of the post Mr. Thompson claims he actually  
13 posted is as follows:  
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16 Demtard convention opens and the only facts spoken  
17 were the names. Lie after lie. The fact checkers could  
18 retire on Michelle Obama's rant alone. If you need to lie  
19 to try and win you are just shit. If you believe them you  
20 are even worse. Wake the f@#k up America. You are  
21 being played by a fake media, athlete and performers  
22 (who are really clueless and flyers with pedophile man)  
23 and the former DNC, now just the little puppet of Marxist  
24 BLM, Antifa, and Soroas socialist. You are missing out  
25 on a great country and the rest of us are sick and tired of  
26 your act and going to take you to the woodshed for a  
27 proper education. May God help you to pull your heads  
28 out of your asses. Time for the red tide. Lets see how  
29 long until the FB liberal defenders take this one down.  
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INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
STATEMENT OF MATERIAL FACTS NOT  
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818 W. Riverside, Suite 250  
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1 Rowell Decl. Exhibit F.

2 37. Mr. Thompson explained at the meeting that he was just sharing his  
3 political frustration when he posted the comment. Rowell Decl. ¶ 22.

4 38. He said that he did not regret making the comments and that he felt  
5 comfortable saying what he did within his small group. *Id.*

6 39. He also said that he believed the comments were civil based on the  
7 audience but agreed they would not be civil to the public at large and that there  
8 was a better way to express his opinions. *Id.* at 23.

9 40. Mr. Thompson also said at the meeting that he understood why CVSD  
10 would be concerned with the use of the word “Demtard,” as it is insulting to  
11 special needs students. Rowell Decl. ¶ 24.

12 41. He also told Mr. Rowell that he understands how the post would reflect  
13 poorly on CVSD if the post was seen by the public and connected it to him as a  
14 CVSD employee. *Id.*

15 42. On October 21, 2020, Mr. Thompson submitted a written document to  
16 Mr. Rowell through his CVSD Representative Mr. Larsen. Rowell Decl. ¶ 28,  
17 Exhibit I.

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29 INDIVIDUAL DEFENDANTS’ LCivR 56(c)(1)(A)  
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1 43. This document was prepared by Mr. Thompson and details his research  
2 and response to the allegations presented. *Id.*  
3

4 44. The document also discusses Mr. Thompson's beliefs on how a hacker can  
5 change who sees a post from the intended individuals to everyone on a user's  
6 "friends list," how someone takes a screenshot of a post, and that once a post is  
7 the deleted, the post, activity log and who sent the post is all gone and not  
8 retrievable. *Id.*  
9  
10

11 45. The document also includes a timeline of Mr. Thompson's recollection of  
12 events from when he first decided to make a Facebook post on August 17, 2020  
13 through August 27, 2020. *Id.*  
14  
15

16 46. Mr. Thompson maintained in this letter that his Facebook post had been  
17 hacked and that he had been honest throughout this process. *Id.*  
18

19 47. As a result of Mr. Thompson's claims that his Facebook post had been  
20 hacked, CVSD hired a Forensic Examiner to determine whether Mr. Thompson's  
21 Facebook account had been compromised. Rowell Decl. ¶ 30.  
22  
23

24 48. Mr. Rowell contacted the forensic examiner, Joshua Michel, on October 6,  
25 2020. *Id.*  
26  
27

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1 49. Mr. Rowell received Mr. Michel's completed report on December 15,  
2 2020. Rowell Decl. ¶ 31.  
3

4 50. Per the report, Mr. Michel found no evidence of unauthorized use of Mr.  
5 Thompson's Facebook account. *Id.*; Rowell Decl. Exhibit K; Michel Decl.  
6

7 51. Mr. Michel's report discussed that Mr. Thompson had not been entirely  
8 cooperative or forthcoming with Mr. Michel and concluded that there was no  
9 evidence that Mr. Thompson had been "hacked." *Id.*  
10

11 52. This conclusion caused Mr. Rowell to have serious concerns about Mr.  
12 Thompson's truthfulness in the investigation. Rowell Decl. ¶ 31.  
13

14 53. On January 20, 2020, Mr. Rowell emailed a Transfer Agreement directed  
15 to Mr. Thompson to his representative Ty Larsen. Rowell ¶ 32.  
16

17 54. The Transfer Agreement was intended to effectuate Mr. Thompson's  
18 voluntary relinquishment of his current Assistant Principal position and transfer  
19 to a new position, effective June 30, 2021. *Id.*; Rowell Decl. Exhibit L.  
20

21 55. Mr. Rowell informed Mr. Larsen that CVSD was proposing the Transfer  
22 Agreement in part to avoid having to address the allegation that Mr. Thompson  
23 had lied, and continued to lie, in asserting that someone hacked his account.  
24 Rowell Decl. ¶ 33.  
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28 INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
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1 56. Mr. Rowell cautioned that addressing the allegation could lead to even  
2 more serious consequences for Mr. Thompson. *Id.*  
3

4 57. On February 10, 2021, Mr. Rowell received a letter from Mr. Thompson  
5 rejecting the proposed transfer. Rowell Decl. ¶ 34, Exhibit N.  
6

7 58. Mr. Rowell then informed Mr. Thompson that based on the finding of Mr.  
8 Michel's report and his rejection of the Transfer Agreement, that there would be  
9 a second Notice and Opportunity meeting. Rowell Decl. ¶ 35.  
10

11 59. The second Notice and Opportunity meeting was held on May 6, 2021.  
12 Rowell Decl. ¶ 36.  
13

14 60. The meeting contained two new allegations against Mr. Thompson: (1) he  
15 interfered with CVSD's investigation by deleting emails, by refusing to provide  
16 the forensic examiner with his devices, and by wiping and clearing his digital  
17 devices; and (2) he had been dishonest by saying that that Facebook account was  
18 hacked. *Id.*; Rowell Decl. Exhibit P.  
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22 61. At the meeting Mr. Thompson was asked about his prior assertion that his  
23 Facebook account had been hacked. Rowell Decl. ¶ 41.  
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28 INDIVIDUAL DEFENDANTS' LCivR 56(c)(1)(A)  
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1 62. Mr. Thompson continued to maintain that his account had been hacked  
2 and that he did not file a report with Facebook because he believed a Facebook  
3 employee to be the suspected hacker. *Id.*

5 63. Mr. Thompson admitted that he did not have evidence to support this  
6 belief. *Id.* at 43.

8 64. On May 10, 2021, Superintendent Small sent a Notice of Transfer to a  
9 Subordinate Position via certified and regular mail to Mr. Thompson. Rowell  
10 Decl. ¶ 49, Exhibit Q.

12 65. This Notice explained that it was in the best interests of CVSD to transfer  
13 Mr. Thompson from his position of assistant principal to a certificated teacher  
14 position. *Id.*

16 66. The Notice of Transfer also informed Mr. Thompson that pursuant to  
17 RCW 28A.405.230, he has a right to meet informally with the School Board in  
18 an executive session to request that the Board reconsider Mr. Small's decision to  
19 transfer him. Rowell Decl. ¶ 50.

21 67. On June 14, 2021, Mr. Thompson attended a regularly scheduled Board  
22 meeting. Rowell Decl. ¶ 51, Exhibit R.

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1 68. The Board convened at 7:40 p.m. in Executive Session to review the  
 2 performance of a public employee. *Id.*  
 3

4 69. The Executive Session ended, and the Board members rejoined the open  
 5 Board meeting at 8:40 p.m. Cynthia McMullen motioned, and Tom Dingus  
 6 seconded, to uphold Superintendent Small's decision to transfer Mr. Thompson  
 7 to a subordinate certificated position and have the board president provide  
 8 written notice of that decision within ten days following this meeting. *Id.* A Roll  
 9 Call vote was taken at the request of Ms. McMullen. *Id.* Debra Long, Mysti  
 10 Reneau, Ms. McMullen, Keith Clark and Ms. Dingus voted "YEA" to this  
 11 motion. *Id.* The meeting was then adjourned at 8:45 p.m. *Id.*  
 12  
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 15

16 70. The Board considered Mr. Thompson's appeal just as they have  
 17 considered any employee's personnel appeal in the past. McMullen Decl. ¶ 17.  
 18 The Board felt particularly concerned about the derogatory and violent language  
 19 that was contained in the Facebook post and the pattern of behavior by Mr.  
 20 Thompson, as discovered in the investigation. *Id.* at ¶ 18. The Board felt that Mr.  
 21 Thompson could not be trusted to hold this leadership position and that it was in  
 22 the best interests of CVSD to transfer him to a subordinate certificated teaching  
 23 position. *Id.* at ¶ 21-20.  
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 Spokane, WA 99201-0910  
 (509) 455-5200; fax (509) 455-3632

1 71. CVSD properly investigated the issue and made the personnel change  
2 consistent with Board policies and state law. *Id.* at ¶ 23.  
3

4  
5 DATED this 12th day of January 2022.

6 EVANS, CRAVEN & LACKIE, P.S.  
7

8 By: s/ Michael E. McFarland, Jr.  
9 MICHAEL E. McFARLAND, JR., #23000  
10 RACHEL K. PLATIN, #58280  
11 Attorneys for Defendants  
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*Evans, Craven & Lackie, P.S.*  
818 W. Riverside, Suite 250  
Spokane, WA 99201-0910  
(509) 455-5200; fax (509) 455-3632



**CERTIFICATE OF SERVICE**

I hereby certify that on January 12, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Michael B. Love  
Michael Love Law, PLLC  
905 W. Riverside Ave., Suite 404  
Spokane, WA 99201  
Email: [mike@michaellovelaw.com](mailto:mike@michaellovelaw.com)

Robert F. Greer  
Feltman Ewing, PS  
421 W. Riverside Ave., Suite 1600  
Spokane, WA 99201  
Email: [robg@feltmanewing.com](mailto:robg@feltmanewing.com)

s/ Michael E. McFarland, Jr.  
MICHAEL E. McFARLAND, #23000  
RACHEL K. PLATIN, #58280  
Attorneys for Defendants  
Evans, Craven & Lackie, P.S.  
818 W. Riverside Ave., Suite 250  
Spokane, Washington 99201  
(509) 455-5200  
(509) 455-3632 Facsimile  
[MMcFarland@ecl-law.com](mailto:MMcFarland@ecl-law.com)

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*Evans, Craven & Lackie, P.S.*  
818 W. Riverside, Suite 250  
Spokane, WA 99201-0910  
(509) 455-5200; fax (509) 455-3632